

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA

### GOVERNMENT OF GOA

Department of Personnel

#### Notification

1/10/78-PER (Vol. II)

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the Governor of Goa, hereby makes the following rules relating to recruitment to the Group 'D' post in the Directorate of Social Welfare, Government of Goa, namely:—

#### 1. Short title, application and commencement. —

(1) These rules may be called the Government of Goa, Directorate of Social Welfare, Group 'D' post Recruitment Rules, 1988.

(2) *Application.* — These rules shall apply to the posts specified in Column 1 of the Schedule to these rules (hereinafter called as the "said Schedule").

(3) They shall come into force from the date of publication in the Official Gazette.

2. *Number, classification and scales of pay.* — The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule:

Provided that the Government may vary the number of posts in Column 2 of the said Schedule from time to time subject to exigencies of work.

3. *Method of recruitment, age limit and other qualifications.* — The method of recruitment to the said posts, age limit, qualifications and other matters

connected therewith shall be as specified in columns 5 to 13 of the said Schedule.

4. *Disqualification.* — No person who has entered into or contracted a marriage with a person having a spouse living or who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service:

Provided that the Government may if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. *Power to relax.* — Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category or persons.

6. *Saving.* — Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in that regard.

By order and in the name of the Governor of Goa.

Smt. Prabha Chandran, Under Secretary (Personnel).

Panaji, 26th May, 1988.

SCHEDULE

1	2	3	4	5	6	7	8	9	10	11	12	13
Name of the post	No. of posts	Classifi- cation	Scale of pay	Whether selection post or non-selec- tion post	Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age & Edu- cational Qualifica- tions prescribed for the direct recruits will apply in the case of promotees	Period of pro- motion, if any	Method of recruit- ment whether by direct recruitment or by promotion/transfer and percentage of the vacancies to be filled by various methods	In case of recruit- ment by promo- tion/deputation/transfer grades from which pro- motion/deputa- tion/transfer is to be made	If a D.P.C. exists, what is its com- position	Circumstances in which Union Public Service Commission is to be consulted in making recruitment
Aya	4 (1988) Subject to vari- ation de- pendent upon work- load.	Group 'D'	Rs. 750-12-870-EB-14-940.	N. A.	Not ex- ceeding 30 years. (Re- laxable for Govern- ment ser- vants upto the age of 35 years in accordance with the instructions or orders issued by Central Go- vernment).	Essential: Should be literate. Desirable: Knowledge of Konkani and/or Marathi.	N. A.	Two years	By direct recruitment	N. A.	Group 'D' D. P. C. (for con- sidering confirma- tion)	N. A.

Notification

1/6/83-PER

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the Governor of Goa hereby makes the following rules so as to amend the Government of Goa, Daman and Diu, Group 'C', Ministerial, Non-Gazetted common post (outside the Secretariat) Recruitment Rules, 1987 issued under Notification No. 1/6/83-PER dated 17th February, 1987 and published in the Official Gazette, Series I, No. 48 dated the 27th February, 1987 namely:—

1. *Short title and commencement.*—(1) These rules may be called the Government of Goa, Group 'C' Ministerial, Non-Gazetted common posts (outside the Secretariat) Recruitment (First amendment) Rules, 1988.

(2) They shall come into force at once.

2. In the schedule attached to the said Notification for the existing entry in column 11, substitute the following:—

“Promotion:

i) In the Offices/Departments other than the Office of Chief Electrical Engineer:—

Lower Division Clerk/Assistant Store or Godown Keeper or Store Clerk with 3 years regular service in the respective grade.

ii) In the Office of Chief Electrical Engineer:—

75% by Lower Division Clerk/Assistant Store or Godown Keeper or Store Clerk within 3 years regular service in the respective grade.

25% by Meter readers having 3 years service in the grade and subject to qualifying Departmental test”.

By order and in the name of the Governor of Goa.

Smt. Prabha Chandran, Under Secretary (Personnel).

Panaji, 14th June, 1988.

Public Health Department

Notification

5/3/88-IV/PHD

Rules for appointment to the posts of Junior Residence in Dental Disciplined in Goa Dental College and Hospital

1. These rules shall apply to all appointments of Junior Resident who shall be appointed for a fixed tenure of one year as may be determined from time to time in respect of such posts.

2. These rules shall be deemed to have come into force from the date of their Notification in Official Gazette.

3. Applications for the post of Junior Resident shall be invited once in a year. The notice calling

for such applications will be given atleast four weeks before the commencement of the Junior Residency.

4. The following shall constitute the Selection Committee:—

- i) Dean, Goa Dental College & Hospital —Chairman.
- ii) Senior most Professor of Goa Dental College & Hospital — Member.
- iii) Head of Oral & Maxillofacial Surgery — Member.

5. *Eligibility:*—

Every candidate applying for the post of Junior Resident:

a) Should possess B.D.S. degree of the University of Bombay or any other University specified in the first or second schedule to the Indian Dental Council Act, 1948; and

b) Should be registered with the Maharashtra Dental Council or any other State Dental Council.

6. *Basis of Selection:*— The selection of Candidates will be purely on merit.

*Explanation:*— For each candidate the merit will be determined by adding the percentage of aggregate marks at Semester I and II of Final B.D.S. University examination and reducing it to a percentage after the following deduction:—

(a)  $2\frac{1}{2}$  percent of marks shall be deducted for every failure from the marks of the subject failed.

(b)  $2\frac{1}{2}$  percent marks shall also be deducted as above if the student takes a drop in any subject (does not appear) at the scheduled time.

7. If two or more candidates secure the same number of marks in the merit list as drawn above, the subject marks should decide the merit. In case the subject marks are also the same, the total marks secured by the candidates in the III B.D.S. Examination shall decide the merit.

8. *Procedure.*— The candidate will be called for interview according to the order of merit. His/Her selection to the Junior Residency in will depend upon the number of posts of Junior Residency available for that selection vis-a-vis his/her standing in the merit list. The merit list and tentative number of posts available will be displayed on the notice board atleast ten days before the interview.

9. *Preferences.*— While selecting candidates for appointment to the post of Junior Resident preference will be given in the following order namely:—

- i) Candidates who have graduated from the Goa Dental College and Hospital and worked in the same Institution as a Clinical Assistant for a minimum period of one year.
- ii) Candidate who have graduated from any Institution other than Goa Dental College and Hospital and have minimum One year professional experience.

10. *General Conditions.*— i) For the selection to the post of Junior Resident, candidate of the regular and casual batch preceding the date of selection will be considered together on merit without any preference for either. If after the above any posts remain unfilled they will be filled by applicants of the earlier batches.

ii) Candidates who have been registered for recognised P.G. Diploma/Degree courses will get the first preference. Their period of Junior Residency will be as per the minimum requirement laid down by the University for that diploma/degree.

iii) The tenure of Junior Residency will not ordinarily exceed as maximum period of one year.

iv) The appointment shall be subject to a pre-entry medical examination by the Medical Board.

11. *Contract.*— The selected Candidate should be allowed to join only after he enters into a written contract to serve a minimum period of one year.

12. *Review.*— Any Candidate aggrieved by the decision of the selection Committee may in writing within a period of 2 days from the date of declaration of the list of selected candidates, apply to the Dean for review of the decision specifically mentioning the grounds for such request. The decision of the Dean thereon shall be final.

L. J. Menezes Pais, Under Secretary (Health).

Panaji, 7th June, 1988.

## Law (Legal and Legislative Affairs) Department

### Notification

10-3-88/LA

The Representation of the People (Third Amendment) Act, 1987 (Act No. 40 of 1987) which was passed by Parliament and assented to by the President of India on 27th November, 1987 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 27th November, 1987, is hereby republished for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 14th March, 1988.

The Representation of the People  
(Third Amendment) Act, 1987

-AN-

ACT

further to amend the Representation of the People Act, 1950.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Representation of the People (Third Amendment) Act, 1987.

(2) It shall be deemed to have come into force on the 22nd day of September, 1987.

2. *Amendment of section 7.*—In section 7 of the Representation of the People Act, 1950 (hereinafter referred to as the principal Act),—

(i) in sub-section (1), for the word, brackets, figure and letter "sub-section (1A)", the words, brackets, figures and letters "sub-sections (1A) and (1B)" shall be substituted;

(ii) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) Notwithstanding anything contained in sub-section (1), in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, to be constituted at any time after the commencement of the Representation of the People (Third Amendment) Act, 1987,—

(a) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Arunachal Pradesh;

(b) fifty-five seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Meghalaya:

(c) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Mizoram; and

(d) fifty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Nagaland."

3. *Repeal and saving.*—(1) The Representation of the People (Amendment) Ordinance, 1987, is hereby repealed. Ord. 7 of 1987.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

#### Notification

10-3-88/LA

The Benami Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988 (Ordinance No. 2 of 1988), which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, section 1, dated the 19th May, 1988 is hereby republished for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 8th June, 1988.

#### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th May, 1988/Vaisakha 29, 1910

(Saka)

#### THE BENAMI TRANSACTIONS (PROHIBITION OF THE RIGHT TO RECOVER PROPERTY) ORDINANCE, 1988

No. 2 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India.

An Ordinance prohibit the right to recover property held *benami* and for matters connected therewith or incidental thereto.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the *Benami Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988.*

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. *Prohibition of the right to recover property held benami.*—(1) No suit, claim or action to enforce any right in respect of any property held *benami* against the person in whose name the property is held or against any other person shall lie by or on behalf of a person claiming to be the real owner of such property.

(2) No defence based on any right in respect of any property held *benami*, whether against the person in whose name the property is held or against any other person, shall be allowed in any suit, claim or action by or on behalf of a person claiming to be the real owner of such property.

(3) Nothing in this section shall apply,—

(a) where the person in whose name the property is held is a co-parcener in a Hindu undivided family and the property is held for the benefit of the co-parceners in the family; or

(b) where the person in whose name the property is held is a trustee or other person standing in a fiduciary capacity, and the property is held for the benefit of another person for whom he is a trustee or towards whom he stands in such capacity.

3. *Act not to apply in certain cases.*—Nothing in this Act shall affect the provisions of section 53 of the Transfer of Property Act, 1882, or any law relating to transfers for an illegal purpose. 4 of 1882.

4. *Repeal of provisions of certain Acts.*—(1) Section 82 of the Indian Trusts Act, 1882, section 66 of the Code of Civil Procedure, 1908 and section 281A of the Income-tax Act, 1961, are hereby repealed. 2 of 1882. 5 of 1908. 43 of 1961.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall affect the continued operation of section 281A of the Income-tax Act, 1961, in the State of Jammu and Kashmir. 43 of 1961.

R. VENKATARAMAN,  
President.

S. RAMAIAH,  
Secy. to the Govt. of India.



**Notification**  
10-3-88/LA

The National Security (Amendment) Ordinance, 1988 (Ordinance No. 4 of 1988) which was promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 26th May, 1988 is hereby republished for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 14th June, 1988.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th May, 1988/Jyaistha 5, 1910  
(Saka)

The National Security (Amendment) Ordinance, 1988  
No. 4 of 1988

Promulgated by the President in the Thirty-ninth  
Year of the Republic of India

*An Ordinance further to amend the National Security Act, 1980, in its application to the State of Punjab and the Union territory of Chandigarh.*

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.* — (1) This Ordinance may be called the National Security (Amendment) Ordinance, 1988.

(2) It shall come into force at once.

2. *Amendment of section 14A.* — In the National Security Act, 1980, as applicable 65 of 1980. to the State of Punjab and the Union territory of Chandigarh, in sub-section (1) of section 14A, for the figures, letters and words "8th day of June 1988", the figures, letters and words "8th day of June 1989" shall be substituted.

R. VENKATARAMAN,

President.

S. RAMAIAH,

Secy. to the Govt. of India.

Legislature Department

**Notification**

74-88/LA

The Goa Contingency Fund Act, 1988 (Goa Act No. 4 of 1988) which has been passed by the Legislative Assembly of Goa on 12-1-1988 and assented to by the Governor of Goa on 23-3-1988 is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 30th March, 1988.

## The Goa Contingency Fund Act, 1988

(Act No. 4 of 1988) [23-3-1988]

*An Act to provide for the establishment and maintenance of a Contingency Fund for the State of Goa.*

Be it enacted by the Legislative Assembly of Goa in the Thirty eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.* — This Act may be called the Goa Contingency Fund Act, 1988.

2. *Establishment of Contingency Fund.* — There shall be established a Contingency Fund in the nature of an imprest entitled the Contingency Fund of the State of Goa (hereinafter called the "Contingency Fund") into which shall be paid from and out of the Consolidated Fund of the State of Goa a sum of rupees twenty five lakh only.

3. *Custody of Contingency Fund and withdrawals therefrom.* — The Contingency Fund shall be held on behalf of the Governor of Goa by the Finance Secretary to the Government of Goa and no advances shall be made out of such fund except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislative Assembly under appropriations made by law.

4. *Power to make rules.* — For the purpose of carrying out the objects of this Act, the State Government may make rules regulating all matters connected with or ancillary to the custody of, the payment of monies into, and the withdrawal of monies from the Contingency Fund and till such rules are made, the payment of moneys into and withdrawal of monies from the Consolidated Fund shall be regulated for the time being by the rules which were in force upto 30-5-1987 and were applicable to the Contingency Fund of the Union territory of Goa, Daman and Diu subject to the modifications in the said rules that reference to authorities shall be construed in relation to the Contingency Fund of the State of Goa as references to the corresponding authorities of that State.

Secretariat,

Panaji-Goa.

Dated:

30th March, 1988.

(M. RAGHUCHANDER)

Secretary to the Government of Goa.

Law Department (Legal Affairs)

LA/B/2208/1988

Dt. 19-7-1988

The following Bill which was introduced in the Legislative Assembly of Goa on 18-7-1988 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and conduct of Business of the Legislative Assembly.

**The Goa Buildings (Lease, Rent and Eviction) Control  
(Amendment) Bill, 1988**

(Bill No. 40 of 1988)

**A  
BILL**

*to amend the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968.*

Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act, 1988.  
(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 23 A.*— In section 23 A of the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (Act 2 of 1969) (hereinafter referred to as the "principal Act")—

(i) in sub-section (3), after clause (b), the following clauses shall be inserted, namely:—

"(c) The provisions of this sub-section shall be applicable to all applications including those pending proceedings before any Controller/Tribunal/Court and all such proceedings shall be disposed of in accordance with the provisions of this section.

(d) During the pendency of proceedings for recovery of possession under this sub-section, the tenant shall continue the regular payment of rent due to the landlord or for deposit of such amounts by the tenant with the Controller/Tribunal/Court for payment to the landlord:

Provided that nothing in this sub-section shall be so construed as conferring a right on any person to recover possession of more than one residential building inclusive of any part or parts thereof if it is let out in part or parts:

Provided further that the Controller may give the tenant a reasonable period for putting the landlord or as the case may be, his widow in possession of the residential building and may extend such time so as not to exceed six months in the aggregate."

(ii) *Insertion of new sub-section (3A).*— After sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) (a) Every application under sub-section (3) shall be dealt with in accordance with the procedure specified in this sub-section.

(b) After an application under sub-section (3) is received, the Controller shall issue summons for service on the tenant in the form specified in the Schedule.

(c) The summons issued under sub-clause (b) shall be served on the tenant as far as may be, in accordance with the provisions of Order V of the First Schedule to the Code of Civil Procedure, 1908 (Central Act 5 of 1908). The Controller shall in addition direct that a copy of the summons be also simultaneously sent by registered post acknowledgement due addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and that another copy of the summons be affixed at some conspicuous part of the building in respect whereof the application under sub-section (3) has been made.

(d) When an acknowledgement purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent has refused to take delivery of the registered article and an endorsement is made by a process server to the effect that a copy of the summons has been affixed as directed by the Controller on a conspicuous part of the building and the Controller after such enquiry as he deems fit, is satisfied about the correctness of the endorsement, he may declare that there has been a valid service of the summons on the tenant.

(e) The tenant on whom the service of summons has been declared to have been validly made under clauses (c) or (d) of sub-section (3 A), shall have no right to contest the prayer for eviction from the residential building unless he files an affidavit within 15 days from the date stating the grounds of service on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord or, as the case may be, the widow, of such landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction of the tenant.

(f) The Controller may give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord or, as the case may be, the widow, of such landlord from obtaining an order for the recovery of possession of the residential building under sub-section (3).

(g) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing on a date not later than one month from the date on which the leave is granted to the tenant to contest and shall hear the application from day to day till the hearing is concluded and application decided.

(h) No appeal or second appeal shall lie against an order for the recovery of possession of any residential building made by the Controller in accordance with the procedure specified in this sub-section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this sub-section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.”;

(iii) In sub-section (4), for the words “Any landlord”, the words “Save as provided in sub-sections (3) and (3A) any landlord” shall be substituted.

3. *Insertion of Schedule.* — After section 59 of the principal Act, the following Schedule shall be inserted, namely:—

#### “SCHEDULE

Form of summons in a case where recovery of possession of building is prayed for under sub-section (3A) of section 23 A.

(Name, description and place of residence of the tenant).

Whereas Shri ... has filed an application (a copy of which is annexed) for your eviction from ... (here insert the particulars of the building) under sub-section (3A) of the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968.

Now, therefore, you are hereby summoned to appear before the Controller within fifteen days of the service thereof and to obtain the leave of the Controller to contest the application for eviction under sub-section (3A) of the said Act, in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the said residential building.

Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in clause (f) of sub-section (3A) of section 23A of the said Act.

Given under my hand and seal this ... day of ... 19...

Controller”.

#### Statement of Objects and Reasons

At present there is no provision for summary disposal of cases on a time bound basis or putting the landlord in possession of the rented premises within a prescribed time. The Ministry of Defence in the Government of India has requested for devising a procedure for summary disposal on time bound basis of cases of eviction of premises belonging to ex-servicemen who after retirement, need the same for their own use, on the lines of relevant procedure available in other State Legislation. Since members of Armed Forces of the Union or an employee of the Central or State Government or Railways face lot of difficulties to get back the premises on their retirement, from the tenants, it is proposed to further amend the Act to provide for disposal of such cases within six months.

#### Financial Memorandum

No financial implications are involved in this Bill.

#### Memorandum of Delegated Legislation

No delegated legislation has been envisaged in this Bill.

Panaji,  
13th July, 1988.

S. H. HAROON  
Minister for Revenue

Assembly Hall,  
Panaji,  
14th July, 1988.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa

#### (Annexure to Bill No. 40 of 1988)

The Goa Buildings (Lease, Rent and Eviction) Control  
(Amendment) Bill, 1988

The Goa, Daman and Diu Buildings (Lease, Rent and Eviction)  
Control Act, 1968 (Act No. 2 of 1969)

Section 23A(4): Any landlord who desires to exercise the right conferred by this section shall make an application to the Controller and the provisions of section 25 in so far as they are applicable, shall apply to such proceedings.

Assembly Hall,  
Panaji, 14th July, 1988.

M. M. NAIK  
Secretary to the Legislative  
Assembly

LA/B/2209/1988

The following Bill which was introduced in the Legislative Assembly of Goa on 18-7-1988 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

#### The Goa Maintenance of Public Order and Safety Bill, 1988

(Bill No. 41 of 1988)

A

BILL

to provide for the maintenance of public order and safety in the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Maintenance of Public Order and Safety Act, 1988.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Definitions.*— (1) In this Act, unless the context otherwise requires, —

(a) “district” means a territorial division constituting a district for the purpose of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974);

(b) “place” includes a house, building, vehicle, a tent, a booth or other erection, whether permanent or temporary, or any area whether enclosed or open;

(c) “person” includes any Company or association, or body of persons whether incorporated or not;

(d) "State Government" means the Government of Goa.

**3. Dispersal of gangs and bodies of persons.**— Whenever it appears to the District Magistrate, District Superintendent of Police or the Sub-Divisional Magistrate specially empowered by the State Government in that behalf, to exercise powers within the jurisdiction, that the movement or encampment of any gang or body of persons in any area of his jurisdiction, is causing or is calculated to cause danger to person or property or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body of persons or by members thereof, such officer may by order addressed to the persons appearing to be the leaders or chiefmen of such gang or body of persons and published by announcement or beat of drums, or otherwise, as such officer thinks fit, direct the members of such gang or body of persons, —

(i) to so conduct themselves as shall seem necessary in order to prevent violence and alarm; or

(ii) to disperse and each of them to remove himself outside the area within the local limits of his jurisdiction or such area, and any district or districts or any part thereof, contiguous thereto within such time as such officer shall specify and not to enter the area or part thereof, as the case may be, or return to the place from which each of them was directed to remove himself or from which they were directed to remove themselves, as the case may be.

**4. Removal of persons about to commit offence.**— Whenever it appears to the District Magistrate, or the Sub-Divisional Magistrate specially empowered by the State Government in that behalf, to exercise powers within his jurisdiction that —

(a) the movements or acts of any person are causing or are calculated to cause alarm, danger, or harm to person or property; or

(b) there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter VIII, Chapter XV, Chapter XVI, Chapter XVII or Chapter XXII of the Indian Penal Code (Central Act 45 of 1860), or under section 290 or sections 489-A to 489-E (both inclusive) of that Code or in the abetment of any such offence; or

(c) such person —

(i) is so desperate and dangerous as to render his being at large in the area of his jurisdiction or any part thereof hazardous to the community; or

(ii) has been found habitually intimidating other persons by acts of violence or by show of force; or

(iii) habitually commits affray or breach of peace or riot, or habitually makes forcible collection of subscription or threatens people for illegal pecuniary gain for himself or for others; or

(iv) has been habitually passing indecent remarks on women and girls, or teasing them by overtures; or

(v) in the opinion of such officer, witnesses are not willing to come forward to tender

evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property; or

(vi) there are reasonable grounds for believing that such person is acting or is about to act —

(1) in any manner pre-judicial to the maintenance of public order; or

(2) an outbreak of epidemic or disease is likely to result from the continued residence of an immigrant;

the said officer may, by the order in writing duly served on such person, or by beat of drum or otherwise as he thinks fit, direct such person or immigrant to so conduct himself as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease, to remove himself outside the area or areas within the local limits of his jurisdiction or such area and any district or districts or any part thereof contiguous thereto by such route, and within such time, as he may specify and not to enter or return to the area or areas (hereinafter referred to as the "specified area or areas") from which he was directed to remove himself.

(2) An officer directing any person under sub-section (1) to remove himself from any specified area or areas in the State of Goa may further direct such person that, during the period the order made against him is in force, as and when he resides in any other area of the State of Goa, he shall report his place of residence to the officer-in-charge of the nearest Police Station once in every month, even if there be no change in his address. The said officer may also direct that during the said period, as and when he goes away from the State, he shall, within ten days, from the date of his departure from the State, send a report in writing to the said Officer, either by post or otherwise of the date of his departure, and as and when he comes back to the State, he shall within ten days from the date of his arrival in the State, report the date of his arrival to the officer in charge of the Police Station nearest to the place where he may be staying.

*Explanation:* — "Habitual offender" shall mean any person as defined in clause (f) of section 2 of the Goa, Daman and Diu Habitual Offenders Act, 1976 (Act 16 of 1976).

**5. Period of operation of orders under section 3 or section 4.** — Any direction made under section 3 or section 4 not to enter any particular area, or any part thereof or any specified area or areas as the case may be, shall be for such period as may be specified therein, and shall in no case exceed a period of two years from the date on which it was made.

**6. Hearing to be given before order under section 3 and section 4 is passed.** — (1) Before an order under section 3 and section 4 is passed against any person, the officer shall by notice in writing inform him of the general nature of the material allegations against him and give him a reasonable opportunity of tendering an explanation regarding them.

(2) If such person makes an application for the examination of any witness to be produced by him, the officer concerned shall grant such application and examine such witness unless for reasons to be recorded in writing, the officer is of the opinion that



such application is made for the purpose of causing vexation or delay.

(3) Any written statement put in by such person shall be filed with the record of the case. Such person shall be entitled to be represented in the proceeding before the officer by a counsel for the purpose of tendering his explanation and examining the witness produced by him.

(4) The officer, may, for the purpose of securing the attendance of any person, against whom any order is proposed to be made under section 3 or section 4, require such person, to appear before him and to furnish a security bond with or without sureties for attendance during the enquiry. If the person fails to furnish the security bond as required or fails to appear before the officer during the enquiry, it shall be lawful for the officer to proceed with the enquiry, and thereupon to pass such order as is proposed to be passed against him.

(5) The provisions of sections 119 to 124 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall so far as may be, apply in relation to the order under sub-section (4) above.

(6) Without prejudice to the foregoing provisions, the officer, while issuing notice to any person under sub-section (1) may issue a warrant for his arrest and the provisions of sections 70 to 89 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall so far as may be, apply in relation to such warrant.

(7) The provisions of sections 445 to 448 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall so far as may be, apply in relation to all bonds executed under this section.

**7. Appeal against order under section 3 or section 4.**—(1) Any person aggrieved by an order made under section 3 or section 4 may appeal to the State Government or any Officer authorised by the State Government in this behalf (hereinafter referred to as the "Appellate Authority") within thirty days from the date of the service of such order on him.

(2) An appeal under this section shall be preferred in duplicate in the form of a memorandum, setting forth concisely the grounds of objection to the order appealed against, and shall be accompanied by that order or a certified copy thereof.

(3) On receipt of such appeal the Appellate Authority may, after giving a reasonable opportunity to the appellant to be heard either personally or by a counsel and after such further inquiry, if any, as it may deem necessary, confirm, vary or set aside the order appealed against:

Provided that the order appealed against shall remain in force pending the disposal of the appeal, unless the Appellate Authority otherwise directs.

(4) The Appellate Authority shall make every endeavour to dispose off an appeal under this section within a period of three months from the date of receipt of such appeal.

(5) In calculating the period of thirty days provided for an appeal under this section, the time taken for obtaining a certified copy of the order appealed against, shall be excluded.

**8. Finality of order in certain cases.**—An order passed under section 3 or 4 by the officer or the Appellate Authority under section 7 shall not be called in question in any court except on the ground—

(a) that the authority making the order had not followed the procedure laid down in sub-section (1) or sub-section (2) or sub-section (4) of section 6 or sub-section (4) of section 7, as the case may be; or

(b) that there was no material before the officer or the Appellate Authority as the case may be, upon which it could have based its order; or

(c) in case of an order under section 4 or an order in appeal therefrom to the Appellate Authority under section 7, the authority was not of the opinion that witnesses were unwilling to come forward to give evidence in public against the person in respect of whom such order has been made.

**9. Procedure on failure of person to leave the area and his entry therein after removal.**—If a person to whom a direction has been issued under section 3 or section 4 to remove himself from any area or part thereof or from any specified area—

(a) fails to remove himself as directed; or

(b) having so removed himself, except with the permission in writing of the authority making the order as provided under section 10, enters the area, or part thereof or the specified area within the period specified in the order, the authority concerned may cause him to be arrested and removed in police custody to such place outside the area or part thereof or outside the specified area, as the case may be, as the said authority may in each case specify.

**10. Temporary permission to enter and consequences of non-observance of conditions attached to such permission.**—(1) The District Magistrate or any other officer specially empowered by the State Government in that behalf may, by order in writing permit any person, in respect of whom an order under section 3 or section 4 has been made, to return to the area or part thereof, or to the specified area or areas, from which he was directed to remove himself, for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observance of the conditions imposed. The District Magistrate or the officer specially empowered in that behalf may at any time revoke any such permission.

(2) Any person who with such permission returns to such area or part thereof, or to such specified area, shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or on the revocation of such permission before the expiry of such temporary period shall remove himself outside such area, or part thereof, or outside such specified area or areas, as the case may be, and shall not return thereto within the unexpired portion of the period specified in the original order made under section 3 or section 4 without fresh permission.

(3) If such person fails to observe any of the conditions imposed, or to remove himself accord-

ingly or having so removed himself enters or returns to the area or any part thereof, or to the specified area, as the case may be, without fresh permission, the District Magistrate or the officer specially empowered by the State Government in that behalf, to exercise powers within his jurisdiction, may cause him to be arrested and removed in police custody to such place outside the area or part thereof or outside specified area as the case may be, or that authority may in each case specify.

11. *Penalty for contravention of directions under section 3 or section 4.* — Whoever opposes or disobeys or fails to conform to any directions issued under section 3 or section 4 or abets the opposition to, disobedience of any such direction shall, on conviction, be punished with imprisonment which shall not be less than four months but which may extend to one year.

12. *Penalty for entering without permission area from which a person is directed to remove himself or overstaying when permitted to return temporarily or for failure to report place or residence or departure or arrival.* — Without prejudice to the power to arrest and remove a person in the circumstances and in the manner provided in section 9, any person who—

(a) in contravention of a direction issued to him under section 3 or section 4 enters or returns without permission to the area, or part thereof or to any specified area or areas as the case may be, from which he was directed to remove himself; or

(b) enters or returns to any such area or part thereof or to any specified area or areas as the case may be, with permission granted under sub-section (1) of section 10 but fails, contrary to the provisions thereof, to remove himself outside such area or part thereof or outside such specified area or areas, as the case may be, at the expiry of temporary period for which he was permitted to enter or return or on the earlier revocation of such permission, or having removed himself at the expiry of such temporary period or on revocation of the permission, enters or returns thereafter, without fresh permission; or

(c) fails, without sufficient cause, to make a report about his place of residence or about his date of departure or arrival as required under sub-section (2) of section 4 shall, on conviction be punished with imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

13. *Presumptions of prosecutions for contraventions of order made under section 3 or section 4.* — In a prosecution for an offence for the contravention of an order made under section 3 or section 4 on the production of an authentic copy of the order, it shall, until the contrary is proved by the accused, be presumed—

(a) that the order was made by the authority competent under this Act to make it;

(b) that the authority making the order was satisfied that the grounds on, or for the purpose for which it was made existed, and that it was necessary to make the same; and

(c) that the order was otherwise valid and in conformity with the provisions of this Act.

14. *Forfeiture of bond entered into by person under sub-section (1) of section 10.* — If any person permitted to enter or return to the area from which he was directed to remove himself under sub-section (1) of section 10, fails to observe any condition imposed under that sub-section or by the bond executed by him thereunder, his bond shall be forfeited and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the court why such penalty should not be paid.

#### Statement of Objects and Reasons

The justification for having a legislation of this nature is to prevent the bad characters and anti-social elements from operating in his area where he has all sorts of protection. It is seen that sometime undesirable persons create an area of influence and power in small communities. As a result peaceful citizens are threatened and hesitate to report activities of such persons to the police. An effective and swift way of dealing with such persons is to turn them out from their area of influence/control. The assumption being that they will not be able to exert the same influence once they are externed out of their area of influence/control. This is a measure which has also been adopted against anti-social elements in Bombay and Delhi.

In view of above, there is an urgent need to go in for a legislation which would empower the Government to have a more effective control over bad characters and persons about to commit offences under certain chapters of Indian Penal Code. With this objective in view, it is proposed to enact this legislation for maintenance of public order and safety in the State.

#### Financial Memorandum

No financial implications are involved in the Bill.

#### Memorandum Regarding Delegated Legislation

Section 3 and section 4(1) of the Bill enables the Government to empower specially sub-Divisional Magistrates to exercise the powers within their respective jurisdiction towards dispersal of gang and removal of persons about to commit offence. Also section 7(1) of the Bill empowers the Government to authorise any officer to act as Appellate Authority.

This delegation is of normal character.

Panaji,  
13th July, 1988.

P. R. RANE  
Chief Minister

Assembly Hall,  
Panaji,  
14th July, 1988.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa